

New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Administration of Mitchell-Lama Waiting Lists

Homes and Community Renewal Division of Housing and Community Renewal



Executive Summary

Purpose

To determine if Mitchell-Lama Housing Program units are assigned to eligible tenants in compliance with properly established waiting lists. Our audit covered the period January 1, 2014 through February 21, 2017.

Background

The Mitchell-Lama Housing Program (Program) was created in 1955 to provide affordable rental and cooperative housing to middle-income families. There are currently 152 State-supervised Program developments with approximately 68,000 apartments. In exchange for low-interest mortgage loans and real property tax exemptions, the Program required limitations on profit and supervision by the Division of Housing and Community Renewal (DHCR), an agency within Homes and Community Renewal. Program apartments are rented or sold to prospective tenants on waiting lists maintained by DHCR's Automated Waiting List (AWL) system. When there are vacancies, applicants should be offered and awarded apartments in the order they appear on the waiting lists. Applicants must meet eligibility requirements related to income limits, family size, and apartment size before taking occupancy of a unit. In addition, while internal transfer applicants (those already occupying Program units) have priority over external applicants for available apartments, developments are required to offer one out of every four available units to applicants on external lists.

When a waiting list is "open," the development accepts new applicants; while when a list is "closed," the development does not accept new applicants, generally because the list is already full. We focused our audit on the five developments with closed waiting lists at the time audit fieldwork began.

Key Findings

- The majority of sampled new admissions, internal transfers, and successions were selected from the AWL and approved by DHCR. However, in most cases, neither DHCR nor the development maintained the documentation required to confirm that tenants were selected in the order they appeared on the AWLs.
- One development, Knickerbocker Village, did not request or receive DHCR approval for eight of the nine succession apartments it awarded. Moreover, it awarded three apartments to individuals who were not on the AWL.
- Four of the five developments did not comply with the required 3:1 internal/external ratio when offering apartments to applicants. For example, Knickerbocker Village officials awarded 18 consecutive one-bedroom units to external applicants, while at Amalgamated Warbasse Houses, we found several instances where at least six consecutive internal transfers were selected for the available two- and three-bedroom units.
- As of July 31, 2016, Westview had 51 vacant units, even though it had applicants on its internal and external AWLs. Ten of these units were vacant for as long as five years.

Key Recommendations

- Take appropriate action regarding tenants who were awarded apartments without DHCR approval and/or not selected from the AWL.
- Ensure that occupancy changes are supported by documentation showing the order in which applicants are selected.
- Ensure that housing developments comply with the requirements for awarding apartments, including (but not limited to) the 3:1 internal/external applicant ratio, the proper use of AWLs, as well as the prompt filling of vacant apartments.

Other Related Audit/Report of Interest

[New York City Department of Housing Preservation and Development: The Mitchell-Lama Program - Awarding Housing Units and Maintaining Waiting Lists \(2014-N-3\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

August 17, 2017

Ms. RuthAnne Visnauskas
Commissioner/Chief Executive Officer
Homes and Community Renewal
25 Beaver Street
New York, NY 10022

Dear Ms. Visnauskas:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively. By so doing, it provides accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

The following is a report of our audit entitled *Administration of Mitchell-Lama Waiting Lists*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, and Article X Section 5 of the State Constitution.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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State Government Accountability Contact Information:

Audit Director: Kenrick Sifontes

Phone: (212) 417-5200

Email: StateGovernmentAccountability@osc.state.ny.us

Address:

Office of the State Comptroller
 Division of State Government Accountability
 110 State Street, 11th Floor
 Albany, NY 12236

This report is also available on our website at: www.osc.state.ny.us

Background

The Mitchell-Lama Housing Program (Program) was created in 1955 to provide affordable rental and cooperative (co-op) housing to middle-income families. A total of 269 State-supervised developments, with over 105,000 apartments, were built under the Program. In exchange for low-interest mortgage loans and real property tax exemptions, the Program required limitations on profit and supervision by the Division of Housing and Community Renewal (DHCR), an agency within Homes and Community Renewal. Twenty years after initial occupancy, housing companies are statutorily permitted to voluntarily dissolve (buy out) and leave the Program. When developments buy out, they are no longer subject to DHCR supervision, and apartments do not need to be kept affordable for middle-income families. There are currently 152 State-supervised Program developments with approximately 68,000 apartments.

Apartments are rented or sold to applicants on waiting lists maintained by DHCR's Automated Waiting List (AWL) system. When there are vacancies, applicants should be offered and awarded apartments in the order their names appear on the waiting lists. Applicants must meet eligibility requirements related to income limits, family size, and apartment size before taking occupancy of a unit. In addition, while internal transfer applicants (those already occupying Program units) have priority over external applicants for available apartments, developments are required to offer one out of every four available units to applicants on external lists.

When a waiting list is "open," the development accepts new applicants, usually through a lottery system. In contrast, when a list is "closed," the development does not accept new applicants, generally because the list is already full. We focused our audit on the five developments noted on DHCR's website with closed waiting lists at the time audit fieldwork began: Mayflower Terrace (Mayflower), a 120-unit co-op in the Bronx; Amalgamated Warbasse Houses (Warbasse), a 2,585-unit co-op in Brooklyn; Towers of BayRidge (BayRidge), a 811-unit co-op in Brooklyn; Knickerbocker Village (Knickerbocker), a 1,590-unit rental development in Manhattan; and Westview, a 361-unit rental development on Roosevelt Island.

Audit Findings and Recommendations

Although the developments generally complied with the pertinent policies and procedures, we found instances of non-compliance with key regulations, such as: applicants who were not selected from the AWL; developments not complying with the required 3:1 internal/external applicant ratio; successions that did not receive DHCR approval; files that were missing the required documentation to support tenant selection; and units that were vacant for extended periods of time. We also found that DHCR gave approval to admission and transfer applications that did not comply with New York Codes, Rules and Regulations, Title 9, Section 1727 (Regulations).

We concluded that DHCR needs to improve its monitoring of the developments to preserve the integrity of the Program and ensure that affordable units are awarded in compliance with the Regulations.

Awarding Housing Units

We reviewed a judgmental sample of 74 tenant files (35 new admissions, 16 transfers, and 23 successions) from a total of 583 occupancy changes at the five developments for the period January 2014 through May 2016, as detailed in Table 1.

Table 1
Sampled Changes in Occupancy

Development	New Admissions	Internal Transfers	Successions	Total Sampled	Total Changes in Occupancy January 2014 - May 2016
Mayflower	6	0	1	7	7
Warbasse	9	5	5	19	270
BayRidge	6	7	8	21	122
Knickerbocker	6	4	9	19	176
Westview	8	0	0	8	8
Totals	35	16	23	74	583

New Admissions

According to the Regulations, new applicants who are offered apartments must be selected from a waiting list and their applications must be approved by DHCR. For four of the five developments, each of the new admissions in our sample was selected from the AWL and approved by DHCR.

However, we found that Knickerbocker admitted one new tenant who was not selected from the AWL. This tenant, an employee of Knickerbocker's management company, moved into a one-bedroom penthouse apartment in March 2015, thus removing an affordable unit from the housing stock available to the public. Although it already had two on-site superintendents,

Knickerbocker's property manager explained that they assigned this apartment to an employee to have additional staff on site in case of an emergency, such as Superstorm Sandy.

Section 1727-3.7 of the Regulations allows developments to assign apartments to resident employees with prior written approval from DHCR. However, neither DHCR nor Knickerbocker could provide documentation showing prior approval for this assignment. Of further concern, the unit, a highly desired penthouse apartment, was sitting vacant for more than a year before the employee moved in.

Although Westview selected its new admissions from the AWL, applicants were not always picked in the order that they appeared on the list. For the eight new one-bedroom admissions we sampled at this development, we found two applicants who should have been offered a unit in 2015, but instead were bypassed by at least two other new tenants, with no justification noted on the AWL.

Automated Waiting List Snapshots

According to DHCR's policies and procedures, developments are required to submit a printout (snapshot) of their current AWL at the time each application packet is processed. The AWL is a real-time system that is continuously updated with additions and deletions, so an AWL snapshot includes pertinent historical information. However, we found that Mayflower was the only development that kept AWL snapshots in tenant files. Officials at Warbasse, BayRidge, and Knickerbocker were not able to provide AWL snapshots, even though the Regulations require that developments keep all forms, letters, reports, and applications in every current and former tenant's file. Westview did not have snapshots in each tenant's folder, but officials were able to provide an AWL snapshot from October 2014 (a few months before any occupancy changes occurred within our scope period).

In response to our preliminary findings, DHCR officials stated that they were in compliance with their policies, and that AWL snapshots are received with applications and reviewed, but not kept in files due to the voluminous paperwork involved. However, the practice of not maintaining snapshots is inconsistent with the Regulations, which require developments to maintain complete files for all current and former tenants. Given the importance of AWL snapshots in establishing the order of the waiting list, we believe that tenant files should include them. Without evidence that an AWL snapshot was submitted with each application, we have limited assurance that tenants were properly reviewed and selected. DHCR officials advised us that, going forward, they will consider updating the AWL system to maintain the history of the list or have developments retain AWL snapshots.

Rights of Refusal

Section 1727-1.3(f) of the Regulations grants applicants the opportunity to reject up to two units offered to them before they're removed from the waiting list. However, we identified several inconsistencies in the way this provision was applied to certain applicants (who were not part of our sample) at Mayflower, Knickerbocker, and Westview, as follows:

- **Mayflower** – Notations on the AWL showed that management was inconsistent in the number of apartment refusals given to prospective tenants. We found some applicants who were given up to four refusals before being removed from the waiting list. DHCR did not identify this non-compliance with the Regulations.
- **Knickerbocker** – A new admission applicant was removed from the AWL without receiving two offers. Knickerbocker’s property manager explained that the applicant indicated he was no longer interested in a unit at the development, citing an email received from the applicant. We reviewed the email and found no evidence that the applicant was no longer interested in a unit. Instead, the email stated, “After careful deliberation, I have decided not to take the apartment.” There was no indication that the applicant was offered a second unit. Moreover, the AWL incorrectly indicated that the applicant was occupying the unit that he didn’t accept.
- **Westview** – Eight applicants were removed from the new applicant one-bedroom list, with notations stating that they either had refused two units or did not appear for two interviews. DHCR policy requires the developments to note what units were offered to the applicants, which Westview had not done. As a result, we were unable to confirm whether or not these eight applicants were actually offered any available apartments before they were removed from the AWL.

DHCR officials stated that the Knickerbocker applicant received two offers, albeit for the same unit. Further, officials contended that Section 1727-1.3(f) of the Regulations does not specifically state that an applicant cannot be offered the same unit twice. However, we believe this interpretation is inconsistent with the intent of the Regulations. In addition, the Regulations were not applied this way for any other tenants. DHCR officials told us that Knickerbocker’s property manager interpreted the applicant’s lack of interest in that unit as a lack of interest in any unit at the development. We question the property manager’s interpretation, because the email merely stated the tenant’s disinterest in the particular unit offered.

Regarding Westview, DHCR responded that each applicant who was removed from the AWL either didn’t show up for their scheduled interview or refused two offered units. However, neither DHCR nor Westview could provide documentation to show what two units were offered and when they were offered, as required by DHCR’s policies and procedures. Based on a lack of documentation, we cannot determine if these applicants were removed from the AWL appropriately.

Internal Transfers

Tenants already occupying Program apartments will often seek “internal transfers” to other units within the same development. According to Section 1727-1.3 of the Regulations, transfer applicants who are offered new apartments must be selected from a waiting list and their applications must be approved by DHCR. We found that four of the five developments in our sample complied with this provision of the Regulations.

However, we found that Knickerbocker awarded units to three transfer applicants who were not selected from the AWL. Two of these applicants were taken from older paper waiting lists – which should have been eliminated when DHCR implemented the AWL system about ten years

ago. With paper waiting lists, AWL snapshots cannot be taken, so we question DHCR's assertion that AWL snapshots are always provided and reviewed as part of the tenant approval process. Consequently, we have limited assurance that these applicants were appropriately awarded apartments. Moreover, DHCR officials were unaware that Knickerbocker used paper lists and were unable to show how they determined that the transfer applicants were properly selected. DHCR officials agreed that paper lists were prohibited and advised Knickerbocker to transfer applicants to the AWL system, which provides greater transparency as well as controls against unauthorized editing.

A third tenant, who remained in a unit after a parent moved out, was granted a transfer to a larger unit based on the parent's previous transfer application. According to the Regulations, applicants who are offered apartments should be selected from a waiting list. However, this tenant was never placed on the internal transfer waiting list and should not have been awarded the larger apartment ahead of other tenants on the transfer list.

In addition, the Regulations require that Program units be the occupants' primary residence. However, we identified one Knickerbocker tenant who held two apartments (his unit and his mother's unit) for 17 months before transferring to his mother's unit in September 2016. According to the Regulations, applicants should be selected from the waiting list in consecutive order. However, a review of Knickerbocker's transfer waiting list showed that there were at least eight other applicants on the list ahead of this tenant. Moreover, according to DHCR officials, the unit that was occupied by the tenant prior to his transfer was still vacant as of March 23, 2017. Thus, for nearly two years, one of those units should have been made available to the next applicant on the AWL.

Internal/External Ratio

The Regulations give internal transfer applicants priority over external new applicants for available apartments. However, developments are required to offer one out of every four available units (i.e., a 3:1 internal/external ratio) to prospective tenants on the external new applicant waiting list. We found that four of the five sampled developments did not comply with this requirement, as follows:

- **Warbasse** – There were five instances from January 2014 through June 2016 where at least six consecutive internal transfers were selected for two- and three-bedroom units.
- **BayRidge** – Officials acknowledged that they use an incorrect 4:1 internal/external ratio (instead of the required 3:1 ratio).
- **Knickerbocker** – Between January 2014 and December 2015, 18 consecutive one-bedroom units were awarded to external new applicants. Similarly, seven consecutive three-bedroom units were offered only to internal transfer applicants (Knickerbocker officials explained that they didn't maintain an external AWL during that time). DHCR was unable to identify when the last three-bedroom unit was awarded to an external applicant.
- **Westview** – All eight of the one-bedroom apartments in our sample went to an external applicant, even though there were at least ten applicants seeking an internal transfer.

DHCR approved all of the aforementioned applications, even though the four developments were not in compliance with the 3:1 internal/external ratio. DHCR officials acknowledged this finding and told us that they will enforce this requirement going forward.

Successions

The Regulations allow household members to apply for succession rights when primary tenants leave their Program apartment, as long as the applications are approved by DHCR. We reviewed 23 successions at four of the developments (Westview did not have any successions during the audit period) and found that the 14 successions at Mayflower, Warbasse, and BayRidge were all approved by DHCR.

However, we found that eight of the nine succession rights tenancies at Knickerbocker were not submitted to DHCR for approval. Knickerbocker officials told us they informally approve successions without requesting DHCR review, if they know that the tenant lives in the apartment and pays rent on a timely basis. However, bypassing this important independent review by the supervisory agency represents a significant internal control weakness in the awarding of apartments at Knickerbocker. DHCR officials were not informed of these tenancies and thus could not verify that these tenants were in fact eligible for succession rights. Based on our review of the documentation in the files, which included items such as income affidavits, tax returns, and verification letters from the Department of Taxation and Finance, nothing indicated that these tenants were not eligible for succession rights. In response to our preliminary finding, DHCR officials stated they will issue an addendum to remind developments that succession applications require DHCR approval.

Vacancies

Section 1727-1.5 of the Regulations requires developments to promptly fill vacant apartments with applicants from the waiting list. However, during site visits to the Knickerbocker and Westview developments in August 2016, we identified apartments that were vacant for extended periods of time, as follows:

- **Knickerbocker** – During our site visit, we found that three units had been reported as vacant for several years. Two of these units were one-bedroom apartments that had been converted to offices and had not been rented out since 2011 and 2012, respectively. One of the offices was being used by the rental agent and the other by a construction employee. According to Knickerbocker officials, the construction employee was overseeing repairs due to damage caused by Superstorm Sandy. Development officials claimed that these two apartments were difficult to rent and that a DHCR management representative approved their use as offices. However, Knickerbocker officials were unable to provide evidence of the approvals. In addition, DHCR officials did not seem to be aware of these conversions, and explained that management representatives do not have the authority to grant such approvals.

A third apartment, a two-bedroom unit, was vacant since November 2014. Development officials explained that the unit is noisy and difficult to rent. In October 2016, we reviewed the two-bedroom AWL (which had 23 new and 127 transfer applicants, some dating back to 2007) and found that none of the applicants were offered this apartment. Moreover, DHCR did not take action to have the unit filled, even though it received monthly market activity reports from Knickerbocker indicating that the unit was vacant. In response to this finding, DHCR officials stated that the unit's last four tenants requested to move to other units, and that it will be converted to an office for the rental agent.

- **Westview** – We found that 51 (14 percent) of Westview's 361 apartments were vacant, some for as long as five years (since March 2011). Westview's owner explained that the development had been in the process of privatizing since 2011, so the 51 units were being kept vacant in the interim. However, Westview's owner was unable to explain why eight new tenants were approved and had moved into one-bedroom units in 2014 and 2015.

After our inquiry, DHCR sent a letter to Westview on September 16, 2016, requiring the development to fill the vacant apartments. However, as of February 21, 2017, Westview had not filled any additional vacant units. DHCR officials have since informed us that they are in discussions with Westview's owner, tenants, and other relevant agencies to work out an affordability plan that will provide long-term rental protections and be in the best interest of current tenants. As noted earlier, developments have the option to buy out and leave the Program after 20 years, without approval from the commissioner or supervising agency to do so. Furthermore, since Westview is a post-1974 development, it is not subject to rent stabilization or rent control after its withdrawal from the Program. Consequently, tenants could be charged market rate rents after their current leases expire.

Management Representative Field Reports

Under New York Private Housing Finance Law, Article II, Section 32(1), DHCR is required to oversee Program development officials and ensure that they comply with all applicable regulations. In addition, DHCR management representatives' guidelines require them to complete annual field reports based on their site and office visits. While the number of field visit reports has increased since 2014, we found that DHCR management representatives did not visit the sampled developments yearly, as detailed in Table 2.

Table 2
DHCR Management Representatives Field Reports
for Sampled Developments

Development	2014	2015	2016
Mayflower	None	Site and Office	Site and Office
Warbasse	None	None	Site Only
BayRidge	None	Site and Office	Site Only
Knickerbocker	None	Site and Office	Site and Office
Westview	None Since September 2012	None	None

As previously noted in this report, the selected developments were not always in compliance with certain DHCR tenant selection procedures. We attribute this non-compliance, in part, to weaknesses in DHCR's monitoring of the developments' administration. We reviewed the most recent field reports for the five developments and noted several discrepancies, as follows:

- **Mayflower** – Reported as “satisfactory” for all areas reviewed. However, we note that the office portion of the 2016 field report was not conducted until after we requested the latest field reports for our sample.
- **Warbasse** – Reported as “satisfactory” for all areas reviewed, even though it did not meet the internal/external applicant ratio. Also, a key area – veteran's preference – was not reviewed as part of the field visit.
- **BayRidge** – Reported as “satisfactory” for all areas reviewed, even though officials used an incorrect internal/external applicant ratio.
- **Knickerbocker** – Reported as “satisfactory” for all areas reviewed, even though officials did not obtain approval for all apartment assignments, and were still using paper waiting lists.
- **Westview** – Its 2012 field report did not address whether the development complied with DHCR's tenant selection procedures, or if it implements and maintains the AWL properly. However, the report did note that Westview was not re-renting vacant units while the new affordability plan was being reviewed.

According to DHCR officials, the Regulations do not require annual site and office visits to developments, asserting that, “DHCR prioritizes when and how to focus attention for each housing company depending on that housing company's outstanding status and needs.” Nevertheless, DHCR's own policies and procedures do require management representatives to visit each development annually. DHCR officials added that their management representatives regularly conduct special site visits as needed, making 60 such visits (including one to Warbasse) to developments in 2016.

Recommendations

1. Identify changes in tenancy on a routine basis, and confirm that new occupants (including successions and transfers) were approved by DHCR.
2. Take appropriate action regarding tenants who were awarded apartments without DHCR approval and/or not selected from the AWL.
3. Ensure that occupancy changes are supported by documentation showing the order in which applicants are selected.
4. Ensure that housing developments comply with the requirements for awarding apartments, including (but not limited to) the 3:1 internal/external applicant ratio, the proper use of AWLs, as well as the prompt filling of vacant apartments.
5. Ensure that Knickerbocker converts its paper waiting list to the AWL system.

6. Determine whether successions approved by Knickerbocker meet eligibility criteria.
7. Ensure that management representatives conduct field visits, including office and site reviews, at least yearly, as required.

Audit Scope, Objective, and Methodology

We conducted this audit to determine whether Program housing units were assigned to eligible tenants in compliance with properly established waiting lists. To accomplish our objective and assess related internal controls, we reviewed the New York Private Housing Finance Law and the Regulations. We interviewed relevant DHCR officials to gain an understanding of their rules, policies, and procedures. We also interviewed managing agents for the five housing developments that we visited to understand how they maintained their waiting lists and their processes for providing units to applicants. We mailed confirmation letters to applicants for the five developments to confirm AWL annotations. We also reviewed tenant files at the sampled developments as well as information maintained on the AWL system. We reviewed previous DHCR audit reports that were conducted by the State Comptroller and the State Inspector General.

Our audit scope was for the January 1, 2014 through February 21, 2017 period. To identify changes in occupancy, we reviewed a sample of rent rolls from January 2014 through May 2016 for Mayflower, BayRidge, Knickerbocker, and Westview. Warbasse was unable to provide rent rolls for the requested period, so changes in occupancy were identified from other documentation for the same period. We identified a total of 583 changes in occupancy at these five developments. We selected a judgmental sample of 74 such changes to determine if they were made in accordance with the Regulations and with pertinent policies and procedures. For Mayflower and Westview, we selected all the changes in occupancy that occurred during our scope period. For the remaining three developments (Warbasse, BayRidge, and Knickerbocker), we selected a judgmental sample that included changes in occupancy resulting from new admissions, internal transfers, and successions at various times during the audit period.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained during our audit provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, Article II, Section 8 of the State Finance Law, and Article X, Section 5 of the State Constitution.

Reporting Requirements

We provided a draft copy of this report to DHCR officials for their review and formal comment. We considered their comments in preparing this final report and have included them at the end of it. In their response, DHCR officials generally agreed with our recommendations and certain observations and disagreed with others. Specifically, officials agreed that changes in occupancy must be supported by documentation and reviewed and approved by DHCR, and that developments should comply with the 3:1 internal/external ratio. They also indicated that they have taken steps to ensure that Knickerbocker converts their paper waiting list to the AWL, and to verify the appropriateness of successions that were never submitted to them for approval. However, officials disagreed with our observations regarding the assignment of an apartment to a Knickerbocker management employee. They believe that this assignment was well-justified and complied with Mitchell Lama regulations. In addition, DHCR provided multiple exhibits with its response. We did not append these exhibits to the final report; however, they will be maintained on file at the Office of the State Comptroller. Our rejoinders to certain DHCR comments are embedded within the report's Agency Comments.

Within 90 days after final release of this report, we request that the Commissioner/Chief Executive Officer of Homes and Community Renewal report to the Governor, the State Comptroller, and leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained in this report, and where recommendations were not implemented, the reasons why.

Contributors to This Report

Kenrick Sifontes, Audit Director
Cindi Frieder, CPA, Audit Manager
Diane Gustard, Audit Supervisor
Dana Bitterman, Examiner-in-Charge
Lillian Fernandes, CPA, Senior Examiner
Marsha Millington, CPA, Senior Examiner
Tina Jiang, Staff Examiner
Kevin Fung, Senior Editor

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.state.ny.us

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.state.ny.us

Ken Shulman, Assistant Comptroller
518-473-0334, kshulman@osc.state.ny.us

Vision

A team of accountability experts respected for providing information that decision makers value.

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To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments and State Comptroller's Comments

Andrew M. Cuomo
Governor



RuthAnne Visnauskas
Commissioner

New York State Division of Housing and Community Renewal
25 Beaver Street
New York, NY 10004

July 17, 2017

Via UPS and Electronic Mail

Mr. Kenrick Sifontes, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, New York 12236

Re: OSC Draft Report 2016-S-46

I. Introduction

Thank you for providing the Division of Housing and Community Renewal ("DHCR") (a subset of Homes and Community Renewal ("HCR")) the opportunity to respond to the New York State Office of the State Comptroller's ("OSC") draft report 2016-S-46 (the "Draft Report") regarding DHCR's administration of Mitchell-Lama wait lists.

This audit has been a collaborative and interactive process. As part of the process, to date, DHCR has addressed (and will continue to address) many issues noted in the Draft Report. In addition, DHCR has already provided certain explanations with respect to activities noted in the Draft Report that are not necessarily reflected in OSC's findings. Where such information was previously provided, DHCR will note that in its responses. In some instances, DHCR is providing additional information as part of its response, which it will also note.

Our continued interaction with OSC has shown DHCR's strong commitment to the Mitchell-Lama program and its efficient and effective management. DHCR has and will continue to strive to improve its oversight of all its programs and seeks in that spirit to provide comments to OSC's observations and recommendations.

II. Responses to Recommendations

Below, please find DHCR's responses to the recommendations set forth in the Draft Report.

Mr. Kenrick Sifontes, Audit Director
 July 17, 2017
 Page 2

Recommendation 1: “Identify changes in tenancy on a routine basis and confirm that new occupants (including successions and transfers) were approved by DHCR.”

DHCR notes that the Draft Report indicated full compliance with respect to all succession application oversight and approval for Mayflower, Amalgamated Warbasse and Bayridge. Broadly speaking, DHCR agrees that changes in occupancy must be regularly approved by DHCR. As such, DHCR’s Housing Management Bureau recently reminded all housing companies of this requirement in a portfolio-wide memo. *See Exhibit A.*

Recommendation 2: “Take appropriate action regarding tenants that were awarded apartments without DHCR approval and/or not selected from the AWL.”

DHCR notes that the Draft Report only makes one finding (regarding a one-bedroom unit at Knickerbocker) in support of this recommendation. DHCR questions whether a single finding merits a broad (or any such) recommendation.¹

State Comptroller’s Comment - DHCR is incorrect. This recommendation does not address a single finding; rather, it addresses 12 distinct findings: four related to applicants who were not selected from the AWL (three transfers and one new tenant), and eight related to succession applicants who were not approved by DHCR.

In addition, for the particular unit in question, management decided to award the apartment to a housing company employee for a well-justified reason that DHCR approved.

Knickerbocker’s senior manager lives off-site. Due to management’s well founded concerns regarding the health and welfare of its residents following Superstorm Sandy and the need to oversee major hurricane-related renovations to apartments, management decided that it was in the development’s best interest to have the assistant manager reside at the premises. As explained in the attached exhibit, Knickerbocker decided it needed additional on-site personnel in order to, in the event of an emergency, aid its residents who had suffered significant hardship and difficulty during the previous storm. *See Exhibit B.*

The Mitchell Lama regulations permit this type of arrangement for cause and provide that “[a] housing company may assign apartments for resident employees and their families if such assignments will provide for more efficient operation of the project.” *See* 9 NYCRR § 1727-3.7. Accordingly, DHCR approved this request. As such, DHCR remains unclear as to why or how OSC arrived at this recommendation and requests that it be omitted.

State Comptroller’s Comment - While 9 NYCRR 1727-3.7 allows a housing company to assign apartments for resident employees, it also states that such assignment should only be made with DHCR’s prior written approval. Neither DHCR nor Knickerbocker were able to provide

¹ Page six of the Draft Report notes that a Knickerbocker management company staff member moved into a one-bedroom unit. The Draft Report mischaracterizes this unit as a “highly desired penthouse unit.” It is DHCR’s understanding that the unit is labeled a penthouse simply because it is on the top floor—a floor which experienced continuous maintenance issues due to its proximity to the roof. (*See State Comptroller’s Comment directly above.*)

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evidence of this approval despite our repeated requests. Additionally, DHCR asserts that we mischaracterized the management employee's unit as a highly desirable penthouse unit. The desirability of the penthouse units is evidenced by the long list of current Knickerbocker tenants who have applied to transfer specifically to the penthouse units.

Recommendation 3: "Ensure that occupancy changes are supported by documentation showing the order in which applicants are selected."

While DHCR agrees with the spirit of this recommendation, we disagree with its underlying basis. We believe that it may give readers a skewed impression of the underlying facts and therefore must be put in context.

All proposed occupancy changes must be supported by specific documentation and it is DHCR's long-standing policy that it will not approve an application without having received (from the housing company) and reviewed a real-time snapshot of the automated wait list ("AWL") summary screen, listing the potentially eligible applicants at the time the unit became available.

State Comptroller's Comment - DHCR's assertions that it will not approve an application without having received the snapshot of the AWL and that in all instances it received and reviewed supporting documentation from the AWL prior to approving new tenants are not true. Two transfer applicants who were part of our review were never entered onto the AWL, and therefore an AWL snapshot did not exist for them. However, these applicants were approved by DHCR. Further, DHCR provided no evidence of snapshots for most of the applications we reviewed. We maintain that the snapshot is an integral part of a complete file. We note that DHCR nonetheless agrees with this recommendation that the AWL snapshot is an integral part of the record and should be maintained, and has advised housing companies to retain copies of AWL snapshots with each application.

The issue that divided OSC and DHCR here is the subsequent retention of these "snapshots" after the approval process is completed. The AWL is a "live system" responsive to modifications and changes. The AWL is therefore unable to reproduce the historical wait list as it existed at the time a specific tenant was selected. However, when a unit becomes available, in accordance with DHCR regulations, the housing companies must (and do) print out the AWL application summary screen to confirm "real-time" compliance with the AWL.

In addition, depending on the nature and the size of a development, these application packets for each admission can be voluminous. In 2016, DHCR received approximately 33,600 pages of admission applications. DHCR did not obligate either itself or the housing company to retain these snapshots as part of the tenant files after the snapshots served their purpose. This is consistent with one of the main purposes of the AWL to create a more paper-free process as well as various other governmental policies and best practices (e.g. environmental and privacy protection).

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DHCR understands that this policy, although consistent with its overall view of the purpose of the AWL, complicated this subsequent audit by OSC. Accordingly, via memorandum, DHCR modified its policy and advised housing companies in its Mitchell-Lama portfolio to retain copies of AWL snapshots with each application. *See Exhibit A* (providing in pertinent part, “3. File Retention – The Housing Company must retain copies of all relevant AWL pages along with the apartment application in the tenant/shareholder file or with the cancelled application.”)

Furthermore, DHCR intends to reach out to the Office of Information Technology Services (“ITS”) about the possibility of modifying the AWL system so that DHCR personnel can, in the future, retrieve the historical waitlist as it was when an applicant was approved. With that said, DHCR remains in disagreement with the underlying basis of this finding; in all instances DHCR received and reviewed supporting documentation from the AWL prior to approving new tenants.

Recommendation 4: “Ensure that housing developments comply with the requirements for awarding apartments, including (but not limited to) the 3:1 internal/external ratio, the proper use of AWLs, as well as the prompt filling of vacant apartments.”

Below, please find a breakdown of DHCR’s responses to Recommendation 4.

A. 3:1 Internal/External Ratio

DHCR agrees that it is important for DHCR to maintain adequate oversight over the application and apartment award process.

DHCR also agrees that compliance with the 3:1 ratio should be the subject of additional oversight. As such, DHCR issued a portfolio-wide memorandum reminding the housing companies of the requirements of the 3:1 ratio and amended its HM-14 form (the form the housing company submits with an external or transfer application) to require the housing company to certify compliance with the 3:1 ratio requirement. *See Exhibit A*. Furthermore, DHCR intends to contact ITS to determine options on how to efficiently administer and authenticate compliance review with the 3:1 ratio without conducting manual searches of the AWL.

In the interim, DHCR oversight of this process will continue. For example, a transfer application based on non-compliance with the “3:1” rule was rejected by DHCR on or about February 13, 2017. *See Exhibit C*. The agency note to Warbasse also required additional remedial action to bring the housing company into compliance.

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B. The Proper Use of AWLs

OSC recommends that DHCR ensure that the housing companies properly use the AWL. However, page six of OSC's Draft Report notes that four out of the five sampled housing companies are already using the AWL for new admissions (all of which were subsequently reviewed and approved by DHCR). Below, please find DHCR's response to the remainder of this finding, ordered by each housing company.

State Comptroller's Comment - DHCR gives the impression that our report reached an overall conclusion that four of the five sampled developments were using the AWL properly. This is not accurate. Various sections of our report noted that Knickerbocker, Westview, and Mayflower were not properly using the AWL, and stated that for the other developments there was insufficient documentation to determine whether the AWL was being used properly.

i. Knickerbocker

A significant amount (if not the majority) of the Draft Report (and this recommendation) focused on Knickerbocker Village. It is critical to point out that many of OSC's concerns and findings are a function of Knickerbocker's documented attempts to deal with the unprecedented and potentially dangerous ramifications resulting from Superstorm Sandy. While OSC acknowledges that Knickerbocker Village suffered damage as a result of Superstorm Sandy, it fails to consider the real health and safety risks posed by this damage while instead focusing on a series of administrative issues.

State Comptroller's Comment - The majority of our findings pertaining to Knickerbocker do not relate to Superstorm Sandy. Reported findings at Knickerbocker include: their continued use of a paper waiting list rather than the required AWL; not obtaining DHCR's approval for succession applicants; and not complying with the internal/external ratio.

For instance, the Draft Report made observations regarding a staff member's residency at the Housing Company. However, as indicated in the site manager's formal request dated December 16, 2014, the housing of this employee was taken as both a remedial post-Sandy and a precautionary measure to aid in the repair of the building and assist the building's residents. *See Exhibit B.* In addition, pursuant to DHCR's regulations, the Housing Company is permitted to house employees in order to efficiently manage the building. *See 9 NYCRR § 1727-3.7.* As such, the housing of the employee was not only consistent with our regulations, but it was clearly a reasonable and proper measure taken by the Housing Company in response to the catastrophic effects it suffered from Superstorm Sandy. It is not clear to DHCR how OSC arrived at a different conclusion.

State Comptroller's Comment - As stated in Comment 2, 9 NYCRR 1727-3.7 requires prior written approval by DHCR before a development can assign an affordable unit to a housing employee. While DHCR and Knickerbocker provided Knickerbocker's request to assign an affordable unit to an employee, neither demonstrated that DHCR approved this request.

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Similarly, the Draft Report extrapolates from a unique, fact-specific instance at Knickerbocker and leaves the reader with the impression that the circumstances reflect a systemic problem with respect to occupancy. This is untrue and is misleading to the reader. Page nine of the Draft Report noted that OSC views a particular situation as an indicator that a Knickerbocker Village tenant occupied and rented two units at the same time. DHCR addressed this matter in its email to OSC dated February 3, 2017. OSC's concern does not distinguish between the tenant's own apartment, and one which he was administering as the executor of his mother's estate. Recovering apartments from an estate creates its own challenges and delays. However, the situation here was resolved by housing company actions that allowed the executor to take personal occupancy of his deceased mother's unit while relinquishing his own. The solution does not indicate a systemic violation of DHCR's rules. Although DHCR agrees that this resolution should have been sent to DHCR for approval, the tenant transferred from a one-bedroom unit to another one-bedroom unit, which is consistent with DHCR's policies and the housing company's regulatory requirements to fairly and equitably award units to qualified applicants. *See* 9 NYCRR 1727-1.1(d).

State Comptroller's Comment - DHCR is mischaracterizing the facts. Knickerbocker allowed a tenant who had his own unit in the development to also hold onto his mother's unit in the same development for 17 months, depriving others of access to this affordable housing. At the end of the 17 months, Knickerbocker approved the tenant to move into his mother's unit – bypassing Knickerbocker's transfer waiting list. Further, this transfer was never approved by DHCR. The claim that this tenant's transfer is consistent with DHCR's policies, and was fair and equitable to all involved, seems contrary to us. Allowing the tenant to transfer to another unit (despite being the same size) was inconsistent with DHCR's policies since there were at least eight other applicants ahead of this tenant on the transfer waiting list.

Page eight of the Draft Report notes that a new admission applicant was removed from the Knickerbocker's AWL without allegedly receiving two offers. As we noted previously, DHCR disagrees with this assessment. The sampled applicant had a particularly high income and did not qualify for many of the housing company's units. In fact, the applicant received two offers for the same unit. While OSC does not view this as two separate offers, DHCR, with its industry-specific regulatory expertise, determined that these facts constitute two separate offers.

State Comptroller's Comment - DHCR is correct that 9 NYCRR 1727-1.3(f) does not specify that an applicant's two offers must be for different units. However, as stated in our report, we do not believe that offering an applicant the same unit twice meets the regulation's intent; nor have we identified this practice for any other tenants at this or other developments we reviewed. DHCR responds that the applicant's income is an issue; however, this is not relevant, since the tenant met the Mitchell-Lama income requirement as evidenced by DHCR's approval of his application.

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As Applicant 590's AWL application history screen notes, Applicant 590 was originally offered unit FF-PH (the "Unit") on July 11, 2013. *See Exhibit D.* On that date, the applicant requested that the unit be placed on hold. *See Exhibit D.* On August 26, 2014, a housing company representative again reached out to Applicant 590 about the Unit. *See Exhibit D.* The applicant accepted the unit and on September 9, 2014, DHCR approved the assignment. It was only after DHCR's approval and the applicant's receipt of two offers for the Unit that on September 22, 2014, Applicant 590 advised the housing company that he was no longer interested in the Unit. Given this applicant's history, the property manager informed us that he interpreted this as Applicant 590's lack of interest in any unit at the housing company. Accordingly, the housing company removed the applicant from the AWL. **Neither DHCR nor the housing company has received a subsequent complaint from this applicant.**

State Comptroller's Comment - Contrary to DHCR's statement, the record for applicant 590 does not show him being offered unit FF-PH on July 11, 2013. Rather on that date, the application was put on hold due to health reasons. DHCR's documentation shows he was offered unit FF-PH on August 26, 2014. However, there is no notation suggesting that the managing agent considered the August 26th offer as the applicant's second offer. If it was, the applicant would have been routinely taken off the waiting list as he exhausted his offers. Instead, the waiting list shows the applicant was assigned the unit on September 5, 2014.

Additionally, DCHR argues that neither they nor the housing company received a subsequent complaint from the applicant. A lack of complaint does not indicate that the actions of DHCR or Knickerbocker were appropriate. In fact, during the course of the audit we contacted this applicant, and he responded that he was still interested in obtaining an apartment at the development and had not been offered two units.

Regardless, there is agreement that the applicant was only offered one unit. As stated in the report, we believe that this is inconsistent with the intent of the regulation. We did not see this interpretation of the regulation applied to other applicants at Knickerbocker - or at other developments. This unit remained vacant for more than a year in between the purported July 2013 and August 2014 offers. We do agree that Knickerbocker incorrectly updated the AWL to show the applicant had been occupying the unit. We did not conflate the incorrect update to AWL with the substantive issue of the offering of the unit to the applicant.

The Draft Report also notes that the "AWL incorrectly indicated that the applicant [590] was occupying the unit that he didn't accept." DHCR believes that any findings related to this topic must be firmly grounded in the specific factual circumstances of each case. The Draft Report's assumption conflates a paperwork error with a substantive obstruction of the regulations that simply does not exist. DHCR agrees that the housing company inadvertently failed to modify the AWL to reflect Applicant 590's status as having turned down two offers. However, Applicant 590 did indeed turn down the apartment - twice. The documentary evidence makes clear that no applicants or residents were prejudiced by the entry. In fact, the housing company's assignment log demonstrates that unit FF-PH was assigned to a different applicant on October 15, 2014 - a little over a month after Applicant 590 rescinded his interest in residing at the housing company. *See Exhibit E.* DHCR has of course advised the housing company to modify the AWL to reflect the facts which are undisputed by either the housing company, DHCR or OSC and to ensure that it fully enters required information in the AWL going forward.

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ii. Mayflower

Page eight of the Draft Report states that Mayflower was not always consistent in the number of refusals it would allow applicants before removing them from the AWL. DHCR has addressed this issue. By email dated February 13, 2017, DHCR notified the housing company that it can only provide two offers per applicant and that applicants who refuse two offers must be removed from the waiting list. See **Exhibit F**.

iii. Westview

With respect to Westview, the Draft Report notes issues surrounding the filling of vacant units and transfers. The Draft Report also notes the substance of DHCR's prior response explaining that these matters are part of an ongoing negotiation with respect to the housing company's dissolution, preservation, and/or conversion to affordable home ownership. DHCR stands by its prior response as appropriately noted by OSC.

C. Prompt Filling of Vacant Apartments

Pages nine and ten of the Draft Report discuss vacancies at Knickerbocker and Westview and recommend that DHCR ensure the prompt filling of vacant units. However, DHCR believes that the Draft Report mischaracterizes both situations and takes them out of their larger contexts.

State Comptroller's Comment - Our report does not mischaracterize the facts regarding the vacancies; rather, it provides specific details surrounding units that are not occupied by tenants.

i. Knickerbocker

DHCR disagrees and notes that Knickerbocker has an extremely low vacancy rate. Pursuant to DHCR's March 18, 2016 field report, there were 18 vacant units – a 1% vacancy rate for the development. See **Exhibit G**. This is below any known industry standard and is acceptable under DHCR policy. In addition, the specific units the Draft Report identified as being long-term vacant are either incorrect or fact-specific. According to DHCR's supervisory interactions with the site manager, the units are being used for proper purposes or were extremely difficult to rent or to keep occupied because of the nature of the unit.

State Comptroller's Comment - While we agree that the overall vacancy rate at Knickerbocker was low, the vacancy reports and rent rolls provided by Knickerbocker showed the three units noted in our report as being vacant for many years. Given the length of the AWL, affordable apartments should not be left vacant for extended periods. Only after we inquired about these units did we learn that two of them were being used as office space; they were not vacant as reported. Further, neither DHCR nor Knickerbocker provided documentation showing DHCR's approval for converting two affordable units into offices.

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For example, page ten of the Draft Report states that two apartments (GI2 and GB-2) were inappropriately converted to office use.

Unit GI2 has been used as a construction office since Superstorm Sandy. As previously noted, the housing company underwent extensive damage after Superstorm Sandy. Due to the exigent circumstances, the Housing Company retained a contractor to assist in the repeated engineering inspections and engineering analysis related to pending insurance claims associated with the storm and also to work on a Superstorm Sandy remediation grant. See **Exhibit H**. DHCR finds this to be an appropriate and reasonable use of the unit considering the damage the Housing Company sustained from the storm.

Furthermore, unit GB-2 has been used as the housing company's rental agent's office since 2011. See **Exhibit I**. The housing company is now marketing GB-2 as a rentable unit. See **Exhibit J**.

Page eleven of the Draft Report notes that a two-bedroom unit (GA-1) has been vacant since 2014. However, as shown in the attached exhibit, this has been an extremely difficult unit to rent and keep occupied because it is on the ground floor of the building and is near a maintenance area and noisy enclave. See **Exhibit I**. The previous four tenants of the unit, all within a short period of time of moving in, transferred to other apartments. Accordingly, on October 20, 2016, Knickerbocker Village converted this unit to the rental agent's office and is now marketing GB-2 as noted above. See **Exhibit J**.

State Comptroller's Comment - DHCR notes that GA-1 (a two-bedroom unit) was extremely difficult to rent. However, neither DHCR nor Knickerbocker were able to provide documentation to substantiate this claim. We reviewed the AWL and found no record of GA-1 being offered to those on the two-bedroom waiting list. While DHCR did provide an email from Knickerbocker's managing agent stating that the unit's previous four tenants transferred to other apartments shortly after moving in, again this statement raises other concerns as the two-bedroom waiting list shows people on that list as far back as 2007 without being offered GA-1. We question how the four tenants of GA-1 were able to transfer to another two-bedroom unit so quickly unless these tenants were given priority over others on the list.

ii. Westview

DHCR respectfully stands by its prior response as appropriately noted by OSC.

Recommendation 5: "Ensure that Knickerbocker converts its paper waiting list to the AWL system."

DHCR agrees and is implementing this recommendation but believes that the recommendation and action must be put into context. The housing company has been using the AWL since 2007. The paper wait list is simply a vestige of Knickerbocker's pre-transition list of applicants.

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State Comptroller's Comment - We disagree that the paper list was just a vestige of Knickerbocker's pre-transition list of AWL since 2007. At the time of our visit to Knickerbocker in August 2016, it was still actively using the paper waiting list for transfer applicants. Knickerbocker never moved these applicants to the AWL as required in 2007. Of further concern, DHCR has been approving transfer applicants who are not on the AWL.

Nevertheless, on January 23, 2017 DHCR issued OHM Directive 2017-001 (the "Directive") directing Knickerbocker Village to remove the legacy paper list. On March 1, 2017, the Knickerbocker Village site manager advised DHCR that all items on the paper wait list had been added to the AWL. This was subsequently confirmed by DHCR staff.

Recommendation 6: "Determine whether successions approved by Knickerbocker meet eligibility criteria."

DHCR agrees and has reviewed and approved all Knickerbocker succession applications from 2013 to date. Following OSC's preliminary report, DHCR asked Knickerbocker to submit all unapproved successions to DHCR for review. DHCR's OHM staff reviewed each succession file and subsequently found that each succession was valid and approved. Copies of the requests and approvals are annexed hereto as **Exhibit K**. Furthermore, DHCR's July 7, 2017 memorandum also addressed successions and provides the following:

- a. A housing company must either approve or deny an occupant's application for succession within 30 days of receipt of such application.
- i. If approved, the housing company must submit to DHCR the succession application for review and final approval.
- ii. If denied, the housing company must promptly notify the applicant in writing. Such notice must state the specific reason for the denial, as well as the method to appeal such denial, as set forth in 9 NYCRR § 1727-8.4 (c).
- iii. Pending DHCR's written determination, the applicant may continue in occupancy.
- iv. If DHCR approves the application, the housing company must notify the applicant to come in for the signing of necessary documents (new lease/occupancy agreement) in the approved applicant's name.

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See **Exhibit A.**

Page six of the Draft Report also noted that a “tenant who remained in a unit after a parent moved out[] was granted a transfer to a larger unit based on the parents’ previous transfer application.” The circumstances involved both a transfer and a succession and the result complied with DHCR’s rules. DHCR respectfully submits that the scenario was fact-sensitive and complex and does not necessitate a finding. DHCR also stands by its previous explanation given to OSC.

State Comptroller’s Comment - The actions taken with regard to this tenant did not comply with DHCR rules. The tenant remained in the unit for three years without obtaining succession rights. This violates regulations and only came to DHCR’s attention when the tenant sought to benefit from his parents’ previous transfer application to move ahead of others waiting to transfer to larger units.

Recommendation 7: “Ensure that management representatives conduct field visits, including office and site reviews, at least yearly, as required.”

DHCR agrees that it is important for its management representatives to regularly visit housing companies in order to assess their physical and office status. However, DHCR’s regulations do not require annual site and office visits. Instead, DHCR prioritizes when and how to focus attention for each housing company depending on that housing company’s outstanding status and needs. For many housing companies, but not all, this means annual visits. Furthermore, OSC’s office and field report statistics were incorrect, which is a source of concern for DHCR. Please allow the below chart to provide an accurate breakdown of the site and office visits conducted by DHCR personnel.

Development	2014	2015	2016
Mayflower	n/a	Site visit and office visit	Site visit and office visit
Warbasse	Site visit	n/a	Site visit and office visit
Bayridge	n/a	Site visit and office visit	Site visit and office visit
Knickerbocker	n/a	Site visit and office visit	Site visit and office visit
Westview	n/a	n/a	n/a

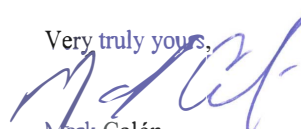
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State Comptroller's Comment - Our report accurately states that the regulations do not require yearly site visits but that DHCR's own policies and procedures do. While DHCR's response states our statistics incorrectly reported the number of visits to developments, our report was in fact accurate based on information provided by DHCR at the time of our audit. Moreover, we shared this chart with DHCR officials in a preliminary report prior to issuing the draft report, and no additional document or comment was provided to us at that time. In its July 17, 2017 formal response, DHCR reported three additional visits. A week later, for the first time, DHCR officials provided documentation for two of three visits they reported in their chart. They also acknowledged that their chart was in fact incorrect because no 2016 office visit was conducted for Bayridge. Further, we are unclear what "n/a" means in the context of site visits to developments they supervise, and why DHCR substituted that for the word "none" as appeared in the draft report.

III. Conclusion

DHCR wishes to acknowledge the opportunity to respond to this Draft Report. As you can see from our responses, DHCR firmly believes that this interactive audit process has allowed us to make improvements upon our program and clear up any misconceptions, where appropriate. We stand ready to discuss these matters with OSC further as OSC deems appropriate.

Very truly yours,



Mark Colón
Deputy Commissioner